IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY SEVENTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY

and
THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 12586 of 2002

Between:

M/S. ASHOK ENTERPRISES TADEPALLIGUDEM,
Rep. by its Proprietor, Ashok Kumar Agarwal,
S/o. Arjun Kumar, Aged 26 years,
TADEPALLIGUDEM.

..... PETITIONER

AND

1 The Secretary, Law Department, Government of Andhra Pradesh, Secretariat Buildings, Saifabad,. HYDERABAD
2 The Principal Secretary to Revenue Government of Andhra Pradesh, Secretariat Buildings, .Saifabad, HYDERABAD.
3 The Commercial Tax Officer, BHIMAVARAM.

..RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue an appropriate Writ, Order or Direction more particularly in the Writ of Mandamus declaring the provisions contained in Section-32 of A.P.General Sales Tax Act, 1957 as inapplicable in relation to the offences identified U/s-30(1)(c) and Section-30(3) and (b) of the APGST Act, 1957 as the said provision of the Act is ultravirus of Section-30 in as much as the exercise of

the powers in Section-32 for offences identified U/s-30 will be in usurpation conferred on a Court of first class Magistrate and therefore Section-32 is redundant or alternatively to read down it's application in respect of offences other than those that are enumerated in Section-30 and consequently set aside the proceedings of the 3rd Respondent herein in O.R.No.3/2002-03 dated 08.06.2002 as illegal, arbitrary without jurisdiction and without authority of law as also in violation of the principles of natural justice, apart from being in contravention of the judgments of this hon'ble Court in 26 APSTJ Pg.91 and 22 APSTJ Pg.135.

Counsel for the Petitioner: MR.M.V.J.K.KUMAR

Counsel for the Respondents: SPL GP FOR TAXES

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ORDER: (Per BRSR,J)

Concededly, the subject matter that arises for consideration in this writ petition is squarely covered by the judgment rendered by this Court in ***AMBICA LAMP HOUSE, RAJAHMUNDRY*** v . ***COMMERCIAL TAX OFFICER (INT)-I ENFORCEMENT, HYDERABAD***.

Following the said decision, this writ petition is also disposed of in terms of the said judgment.

However, it is made clear that the evidence or material, if any, gathered by the Commercial Tax Department during the course of investigation, can always be utilized for proceeding further in the matter in accordance with the provisions of the A.P. General Sales Tax Act and the Rules framed thereunder.

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B. SUDERSHAN REDDY, J.

Date: 27/04/2005

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C.V. RAMULU, J.

GS/GRR

To

1 The Secretary, Law Department, Government of Andhra Pradesh, Secretariat Buildings, Saifabad,. HYDERABAD

2 The Principal Secretary to Revenue Government of Andhra Pradesh, Secretariat Buildings, .Saifabad,

HYDERABAD.

3 The Commercial Tax Officer, BHIMAVARAM.

4 Two CCs to the Special G.P. for Taxes, High Court of A.P., Hyderabad. (OUT)

5 Two CD Copies.